UNIVERSITY OF
TORONTO
FACULTY OF LAW

BORA LASKIN LAW LIBRARY
3 1761 06098604 9

Children and the Law

Winter 2008

Volume III

Professor Carol Rogerson

Faculty of Law, University of Toronto

Storage
KE
512
.A7R64
2008
v.3
c.1

se materials are based in part on those compiled by L. Ferguson for Children and the Law, University of Alberta, Faculty of Law, Fall 2005.

be considered as published. For the sole educational use of students at the Faculty of Law, University of Toronto

BORA LASKIN LAW LIBRARY

FEB - 8 2008

FACULTY OF LAW
UNIVERSITY OF TORONTO

Children and the Law
Winter 2008
Volume III

Professor Carol Rogerson

Faculty of Law, University of Toronto

These materials are based in part on those compiled by L. Ferguson for Children and the Law, University of Alberta, Faculty of Law, Fall 2005.

Not to be considered as published. For the sole educational use of students at the Faculty of Law, University of Toronto

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/childrenlaw03roge_1

Table of Contents

WEEK NINE: CHILD PROTECTION III 622

9.1 Race and Culture in Child Placement Decisions 623
Convention on the Rights of the Child, Articles 8, 20 and 30 623
Child and Family Services Act 623
John Eekelaar, "Children Between Cultures" 629
H. (D.) v. M. (H.) 648
D.H. v. H.M. 653
Van de Perre v. Edwards 655
Tae Mee Park, "In the Best Interests of the Aboriginal Child" 656
S. (S.M.) v. A. (J.P.) 667
T.(R.) (Re) 673
Algonquins of Pikwakanagan First Nation v. Children's Aid Society of Toronto 677
A Canadian haven for black U.S. babies 680
Karen Balcom and Karen Dubinsky "Babies across borders" 682
Twila Perry, "Transracial Adoption Controversy: An Analysis of Discourse and Subordination" 684
Barbara Bennett Woodhouse "Are You My Mother: Conceptualizing Children's Identity Rights in Transracial Adoptions" 689

WEEK TEN: MINOR'S RIGHTS AND MEDICAL DECISION-MAKING 702

10.1 Overview 703
Convention on the Rights of the Child, Preamble, Articles 1, 5, 6, 12, 24 703
Child and Family Services Act 704
Health Care Consent Act 705
Medical Consent of Minors Act 708
Joan Gilmore, "Children, Adolescents, and Health Care" 709

10.2 Adolescence and Decision-Making 725
Convention on the Rights of the Child [provisions related to autonomy and participation rights] 725
Age of Majority and Accountability Act 726
Child and Family Services Act 726
Marriage Act 727
Education Act 728
Youth Criminal Justice Act 728
David Archard, "Children's Rights" 729
Gary B. Melton, "Toward 'Personhood' for Adolescents" 729
Elizabeth Scott, N. D. Repucci, & Jennifer Woolard, "Evaluating Adolescent Decisionmaking in Legal Contexts" 733
Gillick v. West Norfolk and Wisbech Area Health Authority 736
Jane Fortin, Children's Rights and the Developing Law 739

10.3 Mature Minors and Critical Medical Treatment 748
Re L.D.K.; Children's Aid Society of Metropolitan Toronto v. K. and K. 748
T. D. D. (Re) 752
Arthur Schafer, "Who decides for the child? As in the Tyrell Dueck case, even loving parents sometimes behave in ways that require state intervention" 755
B.H. (Next friend of) v. Alberta (Director of Child Welfare) 757
"Teen forced to have blood transfusions called prisoner" 767
"Teen wins fight to refuse blood transfusions" 768

WEEK ELEVEN: CHILDREN, ADOLESCENTS AND SEXUALITY 769

11.1 Introduction 770
CBC News, "Reports shed light on teen sex" 770
Statistics Canada, "Early sexual intercourse, condom use and sexually transmitted diseases" 771
CBC News, "Teens view oral sex as safer choice: study" 772
Statistics Canada, "Teenage pregnancy" 773
Christine Piper, "Historical Constructions of Childhood Innocence: Removing Sexuality" 781
Convention on the Rights of the Child, Articles 17, 19, 33, 34, 35, 36, and 37 788
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 789
Criminal Code, Sections 150, 150.1, 151, 152, 153, 159, 170, 171, 172, 272.3 795

11.2 Age of Consent 799
Bill Curry, "MPs face question of sexual consent" 799
Globe and Mail, "Raising the age of consent—a priority for Tories" 800
Department of Justice, "Frequently Asked Questions: Age of Consent to Sexual Activity" 801
Marilyn Pilon, "Canada's Legal Age of Consent to Sexual Activity" 802
EGALE's submission on Age of Consent to the Department of Justice Canada 806
R. v. M. (C.) 810

11.3 Child Prostitution 815
Criminal Code, Section 212 815
Augustine Brannigan and Erin Gibbs Van Brunschot, "Juvenile Prostitution and Street Kids: Challenges for Protection Workers and the Justice System" 816
Protection of Children Involved in Prostitution Act 822
Jennifer Koshan, "Alberta (Dis)Advantage: *The Protection of Children Involved in Prostitution Act* and the Equality Rights of Young Women" 829
Augustine Brannigan and Erin Gibbs Van Brunschot, "Juvenile Prostitution and Street Kids: Challenges for Protection Workers and the Justice System" 838
Rescuing Children from Sexual Exploitation Act, 2002 841

WEEK TWELVE: ADULT CHILDREN AND CHILD SUPPORT; THE FUTURE OF CHILDREN'S RIGHTS 848

12.1 Child Support and "Adult" Children 849
Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) 849
Family Law Act, R.S.O. 1990, C. F-3 849
Cristin Schmitz, "Lawyers debate injecting "fault" into adult child support" 849
Moore-Orlowski v. Johnston 852
Webb v. Strople 857
Warner v. Warner 860

12.2 Children and the Law: Moving Forward 864
Implementation (sic.) of Canada's International Obligations with Respect to the Rights of Children 864
Martin Guggenheim, What's Wrong with Children's Rights?, 886
David Archard, Children: Rights and Childhood, 890
Martha Minow and Mary Lyndon Shanley, "Relational Rights and Responsibilities: Revisioning the Family in Liberal Political Theory and Law" 898
Martha Minow, "Children's Rights: Where We've Been, and Where We're Going" 904